

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN

In The Matter of:

Chapter 9  
13-53846-swr  
Judge Rhodes

City of Detroit, Michigan

Debtor(s)

\_\_\_\_\_ /

**MOTION FOR RELIEF FROM AUTOMATIC STAY & TO WAIVE  
THE PROVISIONS OF F.R.B.P.4001(a)(3) AS TO KONDAUR  
CAPITAL CORPORATION**

NOW COMES Kondaur Capital Corporation, Movant, through its authorized attorney SCHNIEDERMAN AND SHERMAN PC, and respectfully represents to the Court as follows:

1. That Movant is the holder of a mortgage on a parcel of property commonly known as 7827 LONGACRE STREET, Detroit, MI 48228, (hereinafter “Property”). Property redacted documents: Recorded Mortgage, Assignment, and Note attached as **Exhibits B, C, and D** respectively;
2. That the Debtor filed the instant case on July 18, 2013;
3. That pursuant to 11 U.S.C. § 362(d)(1), upon the request of a party in interest, the court shall grant relief from the Stay enforced pursuant

to 11 U.S.C. § 362(a) for cause, including lack of adequate protection of such party in interest;

4. That pursuant to 11 U.S.C. § 362(d)(2), upon the request of a party in interest, the court shall grant relief from the Stay enforced pursuant to 11 U.S.C. § 362(a) if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization;

5. That pursuant to 11 U.S.C. § 922(b), 11 U.S.C. § 362(d)(1) applies to the Stay provided by 11 U.S.C. § 922(a), therefore, upon the request of a party in interest, the court shall grant relief from the Stay enforced pursuant to 11 U.S.C. § 922(a) for cause, including lack of adequate protection of such party in interest.

6. That pursuant to 11 U.S.C. § 922(b), 11 U.S.C. § 362(d)(2) applies to the Stay provided by 11 U.S.C. § 922(a). Therefore, upon the request of a party in interest, the court shall grant relief from the Stay enforced pursuant to 11 U.S.C. § 922(a) if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization;

7. That pursuant to paragraph 4 of this Court's Order Pursuant to Section 105(a) of the Bankruptcy Code Extending the Chapter 9 Stay to Certain (A) State Entities, (B) Non Officer Employees and (C) Agents and

Representatives of the Debtor entered July 25, 2013 at Docket Number 166, this Motion is proper pursuant to 11 U.S.C. § 362(d)-(g).

8. That the Debtor is the holder of a mortgage on the Property that is junior in priority to that of Movant. Property redacted document: Mortgage attached as **Exhibit E**;

9. That as a result of the default in payments under the promissory note held by Movant, a material default has occurred, which is prejudicial to Movant's rights; that Mortgagor for the Property is due for the September 1, 2013 installment payment, and subsequent installments;

10. Due to the default referenced in paragraph 9, Movant seeks to begin foreclosure by advertisement of the mortgage held by Movant pursuant to the relevant Michigan statutes, but is currently stayed from proceeding due to the lien held by the Debtor referenced in paragraph 8.

11. That the total indebtedness owed to Movant relating to the Property, including accrued interest, escrow, and attorney fees is approximately \$61,565.15;

12. That the fair market value of the Property is estimated to be \$22,176.00, as indicated by the State Equalized Value; that additional lien(s) exist and are as follows: \$16,035.00 held by the Debtor, that upon review of this matter, to the best of the Movant's knowledge and belief, there are no

other lien holders with respect to the subject property. State Equalized Value attached as **Exhibit F**;

13. That the Property is of no value to the bankruptcy estate; that Debtor has no equity in the Property and that Movant lacks adequate protection;

16. That Movant is not seeking a monetary award by filing this Motion;

17. That Movant is entitled to the relief sought pursuant to 11 U.S.C. § 361; 11 U.S.C. § 362; 11 U.S.C. § 922; and this Honorable Court's Order Pursuant to Section 105(a) of the Bankruptcy Code Extending the Chapter 9 Stay to Certain (A) State Entities, (B) Non Officer Employees and (C) Agents and Representatives of the Debtor entered July 25, 2013 at Docket Number 166.

WHEREFORE, Movant requests that it be granted immediate relief from the Automatic Stay as regards the Property; that Movant be permitted to enforce its contractual rights pursuant to state law; that F.R.B.P.4001 (a)(3), which provides that the Automatic Stay shall remain in effect for a period of ten days from date of an Order Granting a Motion for Relief from Stay, be waived.

SCHNEIDERMAN & SHERMAN, P.C.

Date:1/15/14

By: /S/ Brett A. Border  
Brett A. Border (P65534)  
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Corporation  
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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN

In The Matter of:

City of Detroit, Michigan

Chapter 9  
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Judge Rhodes

Debtor(s)

\_\_\_\_\_ /

**ORDER GRANTING RELIEF FROM AUTOMATIC STAY &**  
**WAIVING THE PROVISIONS OF F.R.B.P.4001(A)(3) AS TO**  
**KONDAUR CAPITAL CORPORATION**

This matter having come before this Court on the Motion of Kondaur Capital Corporation, (“Creditor”), by and through its attorneys, Schneiderman & Sherman, P.C., for relief from the Automatic Stay; all parties to said Motion having been served with a copy of Creditor’s Motion and proposed Order:

**IT IS HEREBY ORDERED** that the Automatic Stay is terminated to allow Creditor, its successors or assigns to foreclose on the property known as 7827 LONGACRE STREET, Detroit, MI 48228, legal description LOT 605, AND 1 / 2 OF VACANT ALLEY ADJOINING IN REAR, WEST HAVEN SUBDIVISION NO. 1 AS RECORDED IN LIBER 43, PAGE 37 OF PLATS, WAYNE COUNTY RECORDS, for the reasons set forth in Creditor’s Motion; that Creditor is permitted to dispose of the property in accordance with the terms of its note and security agreement and in accordance with federal and state law; that F.R.B.P.4001(a)(3), is waived; that this order shall be served on the Debtor and all others with an interest in the subject property. This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Bankruptcy Code.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN

In The Matter of:  
City of Detroit, Michigan

Chapter 9  
13-53846-swr  
Judge Rhodes

STATE OF MICHIGAN  
COUNTY OF OAKLAND

**PROOF OF SERVICE**

I hereby certify that on the 15th day of January, 2014, I electronically filed the foregoing Motion for Relief from Stay, Notice of Motion, and Proposed Order with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Eric D. Carlson  
150 West Jefferson  
Suite 2500  
Detroit, MI 48226

Bruce Bennett  
555 S. Flower St.  
50th Floor  
Los Angeles, CA 90071

Jonathan S. Green  
150 W. Jefferson  
Ste. 2500  
Detroit, MI 48226

David Gilbert Heiman  
901 Lakeside Avenue  
Cleveland, OH 44114

Robert S. Hertzberg  
4000 Town Center  
Suite 1800  
Southfield, MI 48075-1505

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4000 Town Center  
Suite 1800  
Southfield, MI 48075

Kay Standridge Kress  
4000 Town Center  
Southfield, MI 48075-1505

Stephen S. LaPlante  
150 W. Jefferson Ave.  
Suite 2500  
Detroit, MI 48226

Heather Lennox  
222 East 41st Street  
New York, NY 10017

Marc N. Swanson  
150 W. Jefferson  
Suite 2500  
Detroit, MI 48226

And I hereby certify that I have mailed by United States Postal Service the Motion for Relief from Stay, Notice of Motion, and Proposed Order to the following non-ECF participants:

WAYNE COUNTY TREASURER  
400 Monroe  
Fifth Floor  
Detroit, MI 48226

Resident  
7827 LONGACRE STREET  
Detroit, MI 48228

City of Detroit  
2 Woodward Ave.  
Suite 1126  
Detroit, MI 48226

Execution on: 1/15/14

By: /S/ Brett A. Border  
Brett A. Border (P65534)  
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